



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
WILLIE AND PATRICIA GRAY)

For Appellants: Willie Gray,
in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Willie and Patricia Gray against a proposed assessment of additional personal income tax in the amount of \$104.47 for the year 1977.

Appeal of Willie and Patricia Gray

The sole issue presented by this appeal is whether appellants have established error in respondent's proposed assessment of additional personal income tax for the year in issue.

Upon audit of appellants' 1977 federal income tax return, the Internal Revenue Service disallowed appellants' combined employee business expense deduction of \$2,577, a casualty loss deduction of \$1,500, and various miscellaneous deductions totaling \$2,331. Upon receipt of a copy of the federal audit report, respondent determined that these adjustments were applicable to appellants' California tax return; the subject notice of proposed assessment was subsequently issued. Appellants protested respondent's action, claiming that a second federal audit had restored the previously disallowed deductions. When appellants failed to provide a copy of the alleged second federal audit report, respondent affirmed its proposed assessment, thereby resulting in this appeal.

A deficiency assessment based upon a federal audit report is presumptively correct (see Rev. & Tax. Code, § 18451), and the taxpayer bears the burden of proving that respondent's determination is erroneous. (Appeal of Donald G. and Franceen Webb, Cal. St. Bd. of Equal., Aug. 19, 1975; Appeal of Nicholas H. Obritsch, Cal. St. Bd. of Equal., Feb. 17, 1959.) Appellants have produced no evidence to show that the federal audit is erroneous: they merely claim that they should not be required to pay the subject proposed assessment. This board has frequently held that such an unsupported assertion is not sufficient to prove that a federal audit is incorrect. (Appeal of Arthur G. and Rogelia V. McCaw, Cal. St. Bd. of Equal., March 3, 1982; Appeal of Robert C. Sherwood, Deceased, and Irene Sherwood, Cal. St. Bd. of Equal., Nov. 30, 1965.) Since appellants have not met their burden of proof, respondent's action in this matter will be sustained.

Appeal of Willie and Patricia Gray

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Willie and Patricia Gray against a proposed assessment of additional personal income tax in the amount of \$104.47 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 26th day of July, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.,

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr., Member

Richard Nevins, Member

_____, Member

_____, Member